

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY TAFOYA,

Petitioner,

No. CIV S-05-0824 FCD GGH P

vs.

J. Yates, Warden, et al.,

Respondents.

ORDER

A joint scheduling statement in this matter was filed on August 26, 2005, pursuant to the court's order filed June 10, 2005.¹ After reviewing the joint statement, the court issues the following ORDERS:

1. Should petitioner elect to proceed on an amended petition of exhausted claims only, the amended petition must be filed within 45 days along with any memorandum of points and authorities; if such an amended petition is filed and served, respondent must file an answer or dispositive motion within 30 days thereafter; petitioner must file any reply or opposition, as appropriate, within 30 days of service of respondent's responsive pleading; if respondent filed a motion, respondent will have 15 days after service of an opposition to file a reply.

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¹ An extension of time for filing the statement was granted by order filed on July 18, 2005.

1 2. Should petitioner identify unexhausted claims which he will seek to exhaust,
2 petitioner shall file an amended petition setting forth all claims, exhausted and unexhausted, and
3 shall demonstrate good cause for having failed to exhaust state court remedies as to any claim
4 which he would seek to exhaust. Petitioner shall move the court to hold the proceedings in
5 abeyance pending exhaustion of state court remedies as to the unexhausted claims, within 45
6 days; if a stay is ultimately granted, petitioner must immediately pursue state court exhaustion,
7 that is, within 30 days of the granting of a stay, and, upon said exhaustion in state court, within
8 30 days, proceed upon the amended petition in federal court.

9 3. Should respondent object to any motion for a stay of proceedings by petitioner
10 to pursue unexhausted claims, respondent must file any opposition to such a motion within 30
11 days of service thereof; thereafter, petitioner has 15 days to file any reply.

12 4. If petitioner intends to make a motion for leave to conduct discovery under the
13 Rules Governing Section 2254 Cases, Rule 6(a), petitioner must do so within 30 days; if
14 respondent opposes any such motion he must do so within 15 days thereafter; petitioner's reply,
15 if any, must be filed within 7 days of any opposition by respondent.

16 5. If petitioner chooses to move for an evidentiary hearing, he must do so at the
17 earliest appropriate opportunity; should petitioner file a motion for an evidentiary hearing, as
18 respondent anticipates opposing any such motion, respondent must file any opposition within 30
19 days of service of the motion, and petitioner must file any reply within 15 days of service of any
20 opposition.

21 DATED: 10/03/05

22
23 /s/ Gregory G. Hollows

24 GREGORY G. HOLLOWS
25 UNITED STATES MAGISTRATE JUDGE

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